

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GREGORY SMITH,

Plaintiff,

v.

Civil Action 2:21-cv-3898

Magistrate Judge Jolson

CITY OF NELSONVILLE OHIO, et al.,

Defendants,

MEMORANDUM OF FIRST PRETRIAL CONFERENCE

This matter came before the Court on October 6, 2021 at 10:30 a.m. at the First Pretrial Conference pursuant to notice and in accordance with Rule 16 of the Federal Rules of Civil Procedure. Counsel appeared as follows:

For Plaintiff:

Daniel Klos

For Defendants:

Kent Hushion

The following matters were considered:

CONSENT TO MAGISTRATE JUDGE

The parties consent to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c).

INITIAL DISCLOSURES

The parties will not make initial disclosures.

VENUE AND JURISDICTION

There are no contested issues related to venue or jurisdiction at this time.

PARTIES AND PLEADINGS

Any motion to amend the pleadings or to join additional parties shall be filed by November 8, 2021.

ISSUES

Plaintiff's Complaint asserts: (1) violation of the Equal Protection Clause of the 14th Amendment; (2) violation of procedural due process rights under the 14th Amendment; (3) malicious prosecution; (4) false imprisonment; (5) violation of the First Amendment; (6) breach of contract. Defendants deny liability. Plaintiff has made a jury demand.

DISCOVERY PROCEDURES

All discovery shall be completed by July 1, 2022. For purposes of complying with this order, all parties shall schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and shall file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call-in number.

Any proposed protective order or clawback agreement shall be filed with the Court by June 1, 2022. A Word version of the proposed protective order should be sent to jolson_chambers@ohsd.uscourts.gov, and any provision related to sealing must comply with S.D. Ohio Civ. R. 5.2.1.

DISPOSITIVE MOTIONS

Any dispositive motions shall be filed by September 2, 2022.

EXPERT TESTIMONY

Primary expert reports must be produced by February 23, 2022. Rebuttal expert reports must be produced by April 6, 2022. If the expert is specifically retained, the reports must conform to Fed. R. Civ. P. 26(a)(2)(B), unless otherwise agreed to by the parties. If the expert is not specifically retained, the reports must conform to Fed. R. Civ. P. 26(a)(2)(C), unless otherwise agreed to by the parties. Pursuant to Fed. R. Civ. P. 26(b)(4)(A), leave of court is not required to depose a testifying expert.

SETTLEMENT

Plaintiff will make a settlement demand by November 1, 2021. Defendant will respond by December 3, 2021. The parties agree to make a good faith effort to settle this case. This matter is referred to a settlement conference in January 2022. The parties understand that this case will

be referred to an attorney mediator for a settlement conference in the month following the settlement demand. In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the settlement conference. The parties understand that they will be expected to comply fully with the settlement order which requires *inter alia* that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

OTHER MATTERS

Plaintiff has filed a Complaint, alleging violations of Ohio's Open Meeting Act, against several Defendants in the Court of Common Pleas of Athens County, Ohio, Case No. 21CI0072. The parties move this Court to stay this matter pending resolution of the Athens County suit.

The Motion is **GRANTED**. The parties, however, are required to update the Court on the Athens County suit every ninety (90) days by filing a status report. The first status report is due January 4, 2022.

If the foregoing does not accurately record the matters considered and the agreements reached at the conference, counsel shall immediately object in writing. If any date set in this order falls on a Saturday, Sunday or legal holiday, the date is automatically deemed to be the next regular business day.

IT IS SO ORDERED.

Date: October 6, 2021

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE